

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WAYNE COOMBS,	:	
Petitioner,	:	CIVIL ACTION
v.	:	
	:	NO. 04-1841
DAVID DIGUGLIELMO, et al.,	:	
Respondents.	:	

ORDER

AND NOW, this 14th day of December 2012, after careful and independent review of the Report and Recommendation (Doc. No. 46), Petitioner's Objections thereto (Doc. No. 49), Respondent's response (Doc. No. 50), the Transcript of the April 26, 2011 Hearing, and the entire record in this case, and for the reasons stated in the Opinion filed this day, it is hereby

ORDERED as follows:

1. Petitioner Wayne Coombs's Objections to the Report and Recommendation are **SUSTAINED**.
2. The Report and Recommendation is **APPROVED** and **ADOPTED** in part but the Court declines to adopt the recommendation that the Petition be denied.
3. The Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 is **GRANTED**.
4. Petitioner's conviction and sentence are **VACATED** and **SET ASIDE**.
5. Petitioner is to be released from custody **UNLESS** within 180 days from the date of this Order the Commonwealth of Pennsylvania affords Petitioner a new trial.

The Clerk of Court is directed to **CLOSE** this case.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUGE, J.